

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
MAY 13, 2015**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the Earl Bennett Building, Conference Rooms A and B, 1035 1st Ave W, Kalispell, Montana. Board members present were, Ron Schlegel, Dean Sirucek, Jim Heim, Jeff Larsen, Mike Horn and Greg Stevens. Kevin Lake and Marie Hickey-AuClaire had excused absences. Tim Calaway was absent. BJ Grieve and Rachel Ezell represented the Flathead County Planning & Zoning Office.

There were 21 people in the audience.

**APPROVAL OF
MINUTES
6:01 pm**

Heim made a motion, seconded by Sirucek to approve the March 11, 2015 meeting minutes and the March 11, 2015 and April 8, 2015 workshop minutes.

The motion passed by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)
6:02 pm**

Dave DeGrandpre, 36708 Leon Road, Charlo, is a land use planner who is assisting people who live in the Highway 93 South corridor. He explained the history of the corridor involving a corridor study for the area. The zoning in the area was restrictive and the wrong zoning designation. There were several things which had impeded the study over the last several years. He briefly explained the issues. He had put together a proposal for the area which would establish a transitional zoning district. He wanted the board to know he had submitted the proposal and hopefully they would be looking at it soon.

James Dawgs, 426 Maple Road, concern was his one and a third acre lot which had three mobile homes on it since 1986. Two had been in place in 1983 and the third had been on the property since 1986. One mobile home had been removed due to repossession. He had recently put a new mobile home on that spot and was told by George Ferris the Code Compliance Office for the Planning Office it was not allowed. The mobile home was set up and had electricity but did not have water hooked up as of yet. It was a good mobile home and his daughter would live there. He could not see why, after all these years the Planning Board would not allow a trailer on the property. It had county supervised installed septic tank, water, natural gas and electricity. The county was going to do away with his house. He

would like a resolution as to why.

TJ Wendt, 2129 Hwy 2 E, was here representing the Evergreen Chamber of Commerce. He introduced Rod Leese, Gary Mahugh, BJ Lupton and Bev Ferris who all had ties with Evergreen. He reviewed the history of the Evergreen Business Overlay. The two year timeframe for the overlay was coming up for expiration. They were here to petition the board to approve the final stage of the project to make the overlay permanent in the first half of the coming fiscal year. This zone would be made permanent if there was established, justified need to make it permanent. He gave the board a brief report on what businesses were in place which would not be in place without the overlay. There were two new businesses in place. He listed the changeover and new businesses in the Evergreen area. People were recognizing Evergreen was a viable place to have a business and there was a future in the Evergreen area. The concern was if the overlay was not made permanent, Evergreen would be back to where they were a year and a half ago and not have the options they had now. If the overlay was kept in place there were more options for business owners in the area. They could not compete with the retail located north of town. The Chamber felt strongly if the overlay was made permanent it gave the option of the property owners to either protect the zoning they currently enjoy or use the overlay zoning. Concerns of residents had not happened as far as massive smoke stacks rising into the skyline. Having the overlay in place would attract businesses that wanted to be close to the new industrial park to have access to the rail system but won't be able to be in the park. It was a proactive, positive thing to have the overlay made permanent. Jobs created in the Evergreen area were part of the bigger picture of the Flathead County environmental structures as a whole. It was another pathway for the county to attract other economic drivers to the county. All of the businesses were connected to the Evergreen Water and Sewer. As far as environmental concerns, it was a moot point. They were already connected to the system. They were open for questions if the board had any.

The board thanked Wendt for his report.

Sara Nargi, 5850 Hwy 93 South, was here to show her support to change the zoning on the Highway 93 South corridor. It had been a long standing difficulty for the residents and they would like the board to take a look at it.

Steven Gordon, 5938 Highway 93 South, wanted to reiterate the long term desperate attempt to get attention in the area. He gave a history of the area and how long they had struggled to change the zoning. They had been stuck in limbo for a long time. Their neighborhood had been together on the change for transitional zoning for a long time and wanted to get things right for what was in the area. He passed out to the board a letter.

**HALFMOON
MEADOW
(FPP-15-02)
6:21 pm**

A request from Prairie Dog Development for Preliminary Plat approval of Halfmoon Meadows, a 47-lot residential major subdivision on 58.576 acres, which is proposed to be developed in 2 phases. All lots would be served by a public water system and individual septic systems. The property is located approximately .5 miles north of the Highway 2/Highway 40 intersection along Halfmoon Road. Primary access to the subdivision would be from Halfmoon Road.

STAFF REPORT

Ezell reviewed Staff Report FPP-15-02 for the Board.

**BOARD
QUESTIONS**

Sirucek asked if the setback figure was the edge of the terrace.

Ezell said it was.

Heim and Ezell discussed the comments from Fish, Wildlife and Parks (FWP) on the additional buffer footage from the creek.

The board and Ezell discussed what the setbacks would be in the riparian area with the modified floodplain and where FWP was proposing the setbacks from.

The board, Grieve and Ezell discussed why the 150' setback was recommended and if the setback was the standard setback for FWP.

Heim and Ezell talked about the location of the FWP setbacks on the maps.

**APPLICANT
PRESENTATION**

Jim McIntyre, 719 3rd Street West, Whitefish, was in agreement with the staff report and conditions. He said he believed he had a plan which supplied Flathead County with reasonably priced residential building lots. He explained the benefits of building the subdivision, how they had tried to mitigate the effects on Trumble Creek, the vegetation which screened the subdivision and the location of Stoltze Lumber Company. He talked about the riparian resource protection plan, building setbacks and the

BOARD QUESTIONS

increased setback from what is currently allowed in the county. He described the storm water protection plan and the traffic study. There was no need for offsite improvements. He talked about the addition of a 15 foot bike path and five foot asphalt foot path with their phased plan. Screening with fencing and planting from the road was encouraged from purchasers of the lots. He explained if there was possible impact of their wells and septic systems. He urged the board to approve the application.

Stevens and McIntyre discussed fire and emergency services, if there was a problem with service for the property and the restrictions of the board to regulate fire and emergency services.

Schlegel said the concern with water supply from Stoltze was also a matter of water rights.

Sirucek and McIntyre discussed the setbacks on lots 11 through 22 which were 50 feet.

McIntyre said the FWP recommendation was a blanket recommendation for the state. It was not a practical or effective setback. It was something they proposed with no regulatory jurisdiction. He felt the 100 foot setback was adequate. There had been previous agriculture use on the land. It was not effective to claim it was a vegetative buffer.

Sirucek and McIntyre discussed the proposed 100 year floodplain and how far away the setback was from the proposed housing area.

Rob Smith with A2Z Engineering said what they found with the maps from FEMA, which would come out later this year, was they were accurate.

Smith and Sirucek discussed the possibility of a burned watershed, the effects on peak flow and if there was a 25 percent increase in flow if the floodplain would be accurate.

McIntyre said they did not set the 100 year floodplain that was government jurisdiction.

Sirucek said his interpretation was they would be alright with a 30 percent increase.

Schlegel said from experience, the field had never flooded.

Sirucek said his interpretation was they would be alright. He had a concern with the way FEMA was doing their modeling.

Schlegel said what also helped with flooding was the mill pond.

Sirucek said it would fill quickly. The industrial noise which was brought up by Stoltze dealt with the applicant looking at the vegetative buffer the way it was currently not if there was a fire which could wipe out the vegetation quickly.

McIntire said for any fire event to come through, it could jump the road but there would be additional roads which could act as firebreaks and the riparian zones were moister than other places of the property. When people bought the properties, they would know Stoltze was a quarter of a mile up the road.

Larsen said the public comments brought up the septic systems and wells repeatedly. There was a comment from Jim Baier concerning the number of soil test holes. He also asked for a description of how the public well was handled.

McIntire said both of the items were under the review of the Department of Environmental Quality (DEQ). The subdivision would not be approved until the system had been proven to be adequate. They did not address water or septic systems in a planning board situation because a separate entity reviewed them. DEQ would not let them do the plan if there were any chance of polluting Trumble Creek or interfering with the other wells.

Smith explained the differences in the number of soil pits dug. The soils were consistent and there was no shallow ground water. Basically, they found consistent soils which would be good for septic systems. Most of the wells in the area were drilled down to 120 feet. That depth of well would not be big enough to feed their system. Stoltze had a public water supply well which was 350 feet. They would need to use the same aquifer for their system. He explained how they were going to make sure the residential wells were not affected.

Larsen and staff discussed how many test holes were required to be dug in subdivision regulations or if the requirement came from DEQ.

Smith said at 15 test holes they had obtained the percentage needed for the 50 lots.

Ezell said the comment concerning test holes could have come directly from the Halfmoon Meadows septic report. The number of test holes could be typos because test holes were dug on all the lots and went on to say the number that was actually dug. The report did note where the test holes were dug and that they were not on every lot.

DeGrandpre had written the Environmental Assessment (EA) and riparian resource management plan. He said the setback from Trumble Creek had been discussed at the meeting. He said FWP had a document which was used statewide. He was one of the planners they had asked to participate to help FWP know how the subdivision process worked at the local level. As far as the setbacks, as a planner, he looked at the site specific conditions. He explained the topography of the lots. The land had been used for agriculture since at least 1964. Any development was set back quite a ways from the stream. They tried to exercise some common sense by looking at the site specific conditions. In every respect, the developer was doing what a good developer should.

Chris Hagen, 600 Burbank, WA, said he had become the owner in 1992. From where they hayed to the creek was approximately 20 feet. He explained in the forty or fifty years he had been there, he had never seen the creek come close to the hayfield. The only thing which could be seen from Stoltze from the property was the smoke stack. There were several houses already in existence between the application property and Stoltze. He used to live in that area and did not hear any noise from Stoltze.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT
7:16 pm**

Larsen and Ezell discussed how many comments were received.

Ken Schwagger, 190 Fir Lane, owned property across the street. He commented on the wells, septic systems, traffic and was against the application.

Erica Mortensen, 2650 East Edgewood Drive, commented on traffic, water quality, wildlife habitat and was against the

application.

**APPLICANT
REBUTTAL**

Janae Donahue Moore, 585 Madera Trail, represented the seller throughout the transaction and had supplied the buyer and developer with information over the years. She had also worked on other projects the developer had worked on. He was seasoned in what he was doing. He knew the need for additional lots and affordable housing in the area. It would create a benefit to the people who lived in the area. She said Mortensen had made a point in her public comment the board should rely on the opinion of experts. There was an EA done by experts. Concerning the blanket statement provided by FWP, there had been no scientific input on this particular property. Based on the opposition, there were many positive things with the development. The developer had taken a great deal of care in putting this project together. As it continued through the process, all the concerns of the public would be addressed.

Rob Smith said as the engineer, he would make the statement they were concerned with the number of septic systems which were proposed for the property however they intended to abide by all the DEQ regulations pertaining to non-degradation calculations making sure they were not degrading the groundwater in the area. If it became apparent other steps were needed, they would design those solutions to protect the water quality of Trumble Creek and area. They were going to do everything according to the regulations. They felt they could get to the goal of making a good development and affordable housing for people in the valley.

**STAFF
REBUTTAL**

Grieve said the recommendation from the FWP was blanket statement and read from their publication the setbacks as stated under water bodies. They were now finding the comments from FWP referred to this document. It was reviewed as part of the staff report and what staff put forth as a recommendation was what the applicant proposed. The thinking and rationale for the recommendation was outlined in the staff report. Finding of fact #11 summarized the rationale for the board's consideration. If the board chose to find differently, then he recommended they consider revisions to finding #11. The risk map was the term used for the revisions to the floodplain maps. He explained in depth for the board the draft changes in the floodplain which mimicked the stream bank. He took very seriously the public comment which alleged the traffic impact study and the EA were not available to the public. Since they were submitted on March

6, 2015 they had been available to the public during office hours Monday through Friday, 8-5. He read the state law concerning access to public records during normal business hours. Anything posted to the website was a courtesy to the public. It was above and beyond what was required in terms of access to public records. The office was not required under any law or case law precedent to post all information to the website to make it available to the public for download at home. It was available to the public in the Planning Office. No less than three people had stopped by and had full access to the file. The office provides access to the file as well as a place to sit and comfortably review the file.

Larsen said there were specific requirements for public notice.

Grieve reviewed where the staff report reviewed the process and what the process was for the application.

Larsen said the chronology was from state statute and all of the requirements had been met.

Ezell addressed the comment concerning CCRs were being used as a tool to mitigate the 100 foot setback. She read out of the subdivision regulations section 4.0.10 concerning restrictive covenants. Based on that statement staff deemed no additional condition needed to be put on this subdivision because the CCRs, as allowed by subdivision regulations, allow mitigation in the stream and riparian situation.

Grieve said if the board wanted to know more, 4.0.10 regarding restrictive covenants was a fairly recent change in statute. It was amended into the subdivision platting act typically to allow for a handful of thing to be mitigated through private CCRs.

Ezell repeated again the subdivision regulations section which was 4.0.10.

Larsen and Grieve discussed if there was any specific reference to the application from the FWP.

Larsen asked if staff had anything to add to their rebuttal.

The board had no further questions.

The board took a 10 minute break to read the submitted

public comment.

The board reconvened at 8:00 pm.

**MAIN MOTION
TO ADOPT
F.O.F.
(FPP-15-02)**

Heim made a motion seconded by Stevens to adopt staff report FPP-15-02 as findings-of-fact.

**BOARD
DISCUSSION**

Ezell and the board discussed at length the safety of the road.

Larsen asked Smith to address the addendum to the traffic report.

Smith explained the addendum and read the paragraph concerning crashes on the one mile road segment, which was beyond the traffic signal up to the end of the subdivision.

Grieve said for the benefit of the record, based on previous public comment, the addendum was in the office since April 28, 2015 for public inspection. It was discussed in the staff report and the staff report had been posted online. He wanted to make sure the record was clear. The addendum had been available for public inspection since April 28, 2015 well in advance of this public hearing.

Sirucek said his concern was the same as Schlegel's. The stretch of the road was narrow. He recounted his personal experience on the road.

Schlegel said his concern was the amount of cars coming from the two approaches. He wondered if a turning lane was a possibility. He explained his experience on the road with hauling heavy machinery. He was looking at the public safety. It was a concern for him to try to make the road safer, at least to the development site.

Smith was in agreement with Schlegel. He explained how he analyzed the traffic study. He said the information did not warrant the developer doing improvements. He understood the road was narrow.

Larsen and Schlegel discussed a project they had worked on together in which the road was similar, the solutions they had come up with and the cost benefit ratio of having a turnout.

Sirucek asked if Schlegel was asking for a change in the finding of fact.

Schlegel said he was.

Stevens explained his difficulties with the narrow roads in the county and the danger associated with them. He wanted to say he had been on a fair amount of roads in Flathead County and a person had to drive them for what they were worth.

Schlegel said he agreed. But if they were considering a subdivision like this, he would like to put in writing explaining the facts, even if they put in a 60 foot turn out...

Larsen said the finding needed to be changed and offered alternate wording. He said the question was if they could mitigate the impact or not. He explained the project Schlegel and he had worked, the impact fee which had been placed on the developer and the road was no wider than when it began.

Schlegel said that subdivision was smaller and there wasn't the truck traffic coming on the roads as well.

Sirucek said the difference was the truck traffic.

Schlegel relayed what he did for safety to haul large equipment on the road. The road was so narrow there had been trucks which had scraped the wood guard rails which may not have been in the report. It was a concern of his. Schlegel recognized Smith.

Smith said he had measured the road at the subdivision and the lanes were between 11 and 12 feet wide each.

Stevens said that was between 22 to 24 feet for the road. He did not know if there was a wider road that could be found in the county. Most of them were a 24 foot road with a 20 foot driving surface.

Schlegel challenged anyone to measure the width with a snow bank in the winter. It was a concern for him.

Ezell read the minimum standards for design and construction by the Road and Bridge Department for collector and local roads.

The board briefly discussed the width of county roads.

Grieve read the finding of fact concerning the road system, and explained it. If the board felt what they were discussing was of concern, now would be the time to amend the finding so there would be a basis for conditioning a project specific condition to the application and read a possible amended finding.

Stevens asked the developer what his thoughts were on the discussion.

McIntyre said it was a moving target. They had submitted a traffic impact study. With having a blanket statement for improving the width of the road, his questions were where, how long... The reason for doing the study was to determine if there were any glaring inefficiencies in the road. The study said there weren't any inefficiency in the road. How were they going to determine what was going to be improved? They had a request for county road input and had received no input. If there was a special road improvement district to improve the width of the road the entire width, they would waive the right of protest in the formation of that and pay their fair share. Hopefully Stoltze Lumber would waive protest on it as well because they seemed to be adamant about the traffic count on the road.

Heim said Schlegel could amend the finding and not change the conditions to have it on record as his concern.

The board discussed what the concerns were specifically about traffic and options for an amended finding.

Ezell repeated possible wording for an amended finding of fact stated by Grieve earlier.

Grieve clarified what he had said.

The board discussed possible wording for an amended finding of fact #5.

**SECONDARY
MOTION TO
(Amend F.O.F. #5)**

Schlegel made a motion seconded by Horn to amend Finding of Fact #5 to read:

Finding #5- The road system appears to be acceptable with the imposition of ~~standard~~ conditions as primary access would be

from Halfmoon Road, each lot has legal and physical access provided by internal subdivision roads that would be built to Flathead County Road and Bridge Department standards, and no improvements were determined to be required with the development according to the TIS prepared by a professional engineer.

**BOARD
DISCUSSION**

Stevens did not understand how having the turnout would impact traffic. He wondered if it had to do more with the ease of transport of large trailers.

Horn said he appreciated there was no comment from the Road and Bridge Department.

The board discussed the amended finding as to if it required them to put a condition on the project.

**ASK THE
QUESTION**

Horn asked the question.

**ROLL CALL
VOTE TO
(Amend F.O.F. #5)**

On a roll call vote the motion passed 5-1 with Stevens dissenting.

**BOARD
DISCUSSION**

None.

**ASK THE
QUESTION**

Larsen asked the question.

**ROLL CALL TO
ADOPT F.O.F.
(FPP-15-02)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
CONDITIONS
(FPP-15-02)**

Stevens made a motion seconded by Horn the Flathead County Planning Board forward a favorable recommendation of subdivision report FPP-15-02 to the Board of County Commissioners.

**BOARD
DISCUSSION**

The board discussed process.

Heim said there was a lot of comment about septic tanks from the public and he wanted a discussion about how septic systems

work. He reviewed the forecast for water use per house and wastewater use. There was not a big number of wastewater production which could pollute the aquifer. Waste water evaporated from the soils from septic systems.

Sirucek explained the soils and how the waste water and soils worked together. He thought the soils could handle the systems, not be detrimental and he reviewed why.

Heim and Sirucek debated if they agreed or didn't as far as if there was a water hazard.

The board discussed what a level two septic system was and how they worked.

Larsen was confident once it went through DEQ approval, there would be no concern. He went on to explain in depth how wells worked and DEQ approval for wells and septic systems.

Heim said his concern was all the comments made about septic systems and wells. He felt their concerns were addressed. He would support a positive recommendation.

Stevens said some of the concerns he had written down were about agriculture. The property was not economically viable to farm. It was very labor intensive. He elaborated on his comment. It was a dilemma on a small parcel. The noise from the mill was the same as the mill in Evergreen or Columbia Falls. He didn't think the noise would be a big deal for anyone. With the concerns with water, traffic and wildlife he didn't think they would be a deal breaker. He had always been concerned with the provision of affordable housing. It was extremely difficult to do. He did not know if this subdivision would be for affordable housing, but the supply needed to be more than the demand to help keep the prices down. The tax base would increase for the Columbia Falls School District. From the stand point of general welfare, he was in support of the application.

Schlegel and McIntyre discussed where the five foot trail would be located.

Schlegel thought the applicant did an excellent job on the application and the 100' setback. The board's job was public safety. He was not concerned with the septic systems because DEQ would take care of any issues. He was still concerned about

traffic because of his experience. He liked the pathway to keep the kids off the road and thought the applicant had gone over and beyond on the application. He voiced his concern on traffic again. He thought something which wasn't in the study was, with his experience as a paramedic for Columbia Falls, the traffic study did not take into account the Blue Moon intersection was one of the most deadly intersections in the Flathead Valley. There was no room to turn right off of Highway 40.

Larsen thought there were valid concerns brought up in public comment and written comments. The way the board looked at it, they had to look at if they could mitigate the health and safety concerns with the imposition of conditions. Every subdivision had impacts. They heard a lot of comments on projects in Prairie Valley. No one wanted their wells impacted or water quality ruined by septic systems. They don't want a traffic problem which would cause accidents. He reviewed what the board could do with comments concerning conditions and how they related. He read examples. He gave examples of what he had done on large projects as an engineer concerning well water. Every concern raised was addressed in the conditions. If they had a situation where they could not mitigate the concerns that was when he voted against the proposal. Typically if they think they had mitigated with conditions, they vote for the proposal. This particular subdivision proposal met all of the subdivision regulations. He would support the proposal.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FPP-15-02)**

On a roll call vote the motion passed 5-1 with Schlegel dissenting.

**BOARD
DISCUSSION**

Larsen and Ezell reviewed the process the application would follow from this point.

Larsen thanked everyone for their time and comments. They wanted to take the time to address all the concerns.

**OLD BUSINESS
9:03 pm**

None.

**NEW BUSINESS
9:04 pm**

Discussion of Fiscal Year 2016 (July 01, 2015-June 30, 2016) work plan for the Flathead County Planning and Zoning Office (per 76-1-106 and 76-1-306 Montana Code Annotated).

Grieve reviewed a list he handed out to the board concerning the work plan for the office which included the Rural Whitefish Jurisdiction transition, an update and revision of the Lakeshore Regulations and the RISK Map Project and the need to adopt the new floodplain maps.

The board and Grieve discussed at length the process of adopting the new floodplain maps and the reasons for the new maps.

Grieve continued to review the work on the list. The list included Evergreen Enterprise Overlay project which was to make the interim zoning overlay permanent and a Highway 93 South Corridor Transition District. He explained what had been submitted to this date, the challenges with the proposal, what parts were in the interim zoning and how that would be handled with the transition. These were the discretionary projects.

The board and Grieve discussed why planner day to day interactions were busy at the office, what applications were for the Board of Adjustment and the process which needed to be followed concerning the strategic plan. They discussed at length time sensitive projects which were the Evergreen Enterprise Overlay and the Rural Whitefish Jurisdiction Transition.

Grieve reviewed what was on the strategic plan for fiscal year 2016 for the Planning Office.

The board agreed to the Evergreen Enterprise Overlay, Risk Map project, Rural Whitefish Jurisdiction Transition, updating the Lakeshore Regulations and the Highway 93 South Corridor Transition District.

Wendt said one person who had been at the meeting tonight which he had not mentioned was Montana West Economic Development representative Arnold Bjork. They were behind the Evergreen Overlay because they could see there was a dovetail which could come of the overlay being made permanent with the Rail Park. There would be a natural bleed over from what happened at the park into the Evergreen community. It would be a shame to miss out on that opportunity.

Larsen said the Highway 93 transition was something the residents had wanted to do for years and it was time to do something about it.

The board briefly discussed the transition district and the possible difficulties.

Grieve and the board discussed the timing of the Whitefish transition and the Highway 93 corridor. They also discussed what project they wanted to tackle first.

Larsen said with updating the Lakeshore Regulations, he did not want to go through them word by word.

Grieve said people were shocked sometimes the county was more restrictive than the Whitefish ones.

Grieve and the board discussed what work had been done on the research for the Highway 93 corridor and if the office could accept private donations for projects.

Grieve thanked the board and said he would present the information to the commissioners and the process from this point.

Grieve and the board briefly discussed the public comment from James Dawgs who rose to speak during public comment and why he chose to speak before the board.

ADJOURNMENT
9:36 pm

The meeting was adjourned at approximately 9:36 pm. on a motion by Heim. The next meeting will be held at 6:00 p.m. on June 10, 2015.

Marie Hickey-AuClaire, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 7 / 8 / 15*